



Auditor of Public Accounts
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FOR IMMEDIATE RELEASE

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Edelen Releases Audit of Leslie County Sheriff's Office

FRANKFORT, Ky. – State Auditor Adam Edelen today released the audit of the 2010 financial statement of Leslie County Sheriff Paul Howard. State law requires the auditor to annually audit the accounts of each county sheriff. In compliance with this law, the auditor issues two sheriff's reports each year: one reporting on the audit of the sheriff's tax account and the other reporting on the audit of the fee account used to operate the office.

The audit found that the sheriff's financial statement presents fairly the revenues, expenditures, and excess fees of the Leslie County sheriff in conformity with the regulatory basis of accounting.

As part of the audit process, the auditor must comment on non-compliance with laws, regulations, contracts and grants. The auditor must also comment on material weaknesses involving the internal control over financial operations and reporting.

The auditor's office has referred this audit to the attorney general.

The audit contains the following comments:

- **The sheriff's office lacks adequate controls over cell phone usage.** During the test of expenditures, we noted the sheriff's office provides a cell phone for the sheriff's wife, who also is the part-time office manager/bookkeeper. The November cell phone payment, which was haphazardly chosen for testing, included four cell phones totaling \$242, with \$159 being charged to the part-time office manager/bookkeeper.

The phone that was provided to the part-time office manager/bookkeeper received the most additional charges (\$58 during November). These charges included answer tones, push-to-talk data unlimited with navigator, text and picture messaging and three monthly subscriptions for text messaging in the amount of \$10 and two Flycell downloads in the amount of \$10 each.

Per Funk vs. Milliken, 317 S.W.2d 499 (KY. 1958), Kentucky's highest court reaffirmed the rule that county fee officials' expenditures of public funds will be allowable only if they are necessary, adequately documented, reasonable in amount, beneficial to the public, and not personal expenses.

We recommend the sheriff adequately document all cell phone expenditures by including the entire monthly statement and the call detail for each cell phone. Since we are questioning the reasonableness of the cell phone charges for the part-time employee, we are referring this finding to the fiscal court and county attorney to determine if these expenditures are a necessary expense of the sheriff's office. We recommend they determine if the part-time employee of the sheriff's office should have a cell phone and if these additional charges are reasonable and necessary expenses of the sheriff's department. If cell phone charges are ultimately deemed unnecessary, they will become a disallowed expense subject to personal payment by the sheriff as excess fees to the fiscal court.

Sheriff's response: No response.

Judge-executive's response: No response.

- **The sheriff should not spend fee monies on disallowed expenditures and should not commingle donation, forfeiture, and fee account monies.** During the audit, auditors noted the following instances where the sheriff spent monies on disallowed expenditures:

Checks Written to Cash, Employees, or Purchase of GreenDot Cards Where Receipts Were Less Than the Amount of the Check	\$ 109
Expenditure – Adequate Documentation Not Maintained, Purchase of Cigarettes, And Flowers For Funerals	337
Bank Overdraft Fees	42
Camp Expenses in Excess of Revenues	29
Total Disallowed Expenditures	\$ 517
Less: Payments Made on Disallowed Exp.	
Expenditure – Adequate Documentation Not Maintained, Purchase of Cigarettes, And Flowers For Funerals	\$ 267
Bank Overdraft Fees	42
Total Payments on Disallowed Expenditures	309
Total Disallowed Exp. As Of December 16, 2011	<u><u>\$ 208</u></u>

In Funk vs. Milliken, 317 S.W.2d 499 (KY. 1958), Kentucky's highest court reaffirmed the rule that county fee officials' expenditures of public funds will be allowable only if they are necessary, adequately documented, reasonable in amount, beneficial to the public, and not personal expenses. Additionally, KRS 134.160 and KRS 68.210, requires the sheriff to comply with the uniform system of accounts. Expenditures that do not comply with statutes are subject to being disallowed.

The sheriff does not have adequate internal control policies in place in order to prevent payments on disallowed expenditures. The sheriff commingled funds, didn't keep track of revenues and expenditures and this, in turn, allowed for the expenditure of funds in excess of revenues for the forfeiture and camp disbursements. The effect was disallowed expenditures in the amount of \$517.

We recommend that the sheriff implement proper internal controls in order to prevent payments on disallowed expenditures in the future. We also recommend that the sheriff not commingle funds in the future. Separate bank accounts should be maintained for receipts and expenditures of forfeiture and camp donations.

Sheriff's response: These charges have been reimbursed to the fee account.

Auditors' response: As of Dec. 16, 2011, the only reimbursements for disallowed expenditures were the ones noted on the previous page.

- **The sheriff does not have adequate controls over revenues.** During our receipt testing we noted the following:
 - During the month of November two receipt books were utilized;
 - All copies of voided receipts were not kept.

Pre-numbered receipts should be used in sequential order. The same receipt book should be used until all receipts in the book have been used. Also it is a good policy to keep all copies of voided receipts. Misappropriation of receipts could occur and not be corrected or detected in a timely manner.

We recommend the sheriff strengthen the internal controls of his office by having office staff utilize one receipt book, issue triplicate receipts in numerical order, and keep all copies of voided receipts.

Sheriff's response: We will comply.

The sheriff should comply with KRS 68.210 by strengthening internal controls over disbursements. During the test of operating disbursements we tested 13 expenditures and during the test of other disbursements we tested 15 expenditures. Other disbursements include unusual items, checks written to cash, employees, or Hyden Citizens Bank. We noted the following discrepancies:

- For all disbursements tested it appeared that for the first three months of the year the sheriff's office utilized counter checks;
- We also noted that checks did not have dual signatures.

Operating Disbursements:

- One instance where an invoice should have been paid from the 2009 fee account;
- One instance where an invoice could not be found;
- One instance where there was no date on the check.

Other Disbursements:

- Three instances where an invoice was not found. Subsequently, one invoice was found and, another one the clerk had faxed from the company.
- Five instances where proper documentation was not kept when employees were being reimbursed for fuel. In some instances employees of the sheriff's office are required to drive their personal vehicles while performing duties of the sheriff's office. Employees are only required to present receipts for fuel purchases with no indication of miles traveled on behalf of the sheriff's office. For instance, the employee may drive 10 miles and be reimbursed for fuel in the amount of \$40. It appears that some fuel costs could be for personal use.
- Two instances where the sheriff's office purchased flowers for a funeral;
- Five instances where checks written to cash, employees, or utilized to purchase GreenDot Cards were for more than the actual purchases, leaving balances due back to the sheriff's Office of \$109 (\$3+\$21+\$2+\$1+\$82).
- One instance where a \$300 check written to cash was coded to camp and vehicle expenses. There was no way to determine what receipts were for camp and what receipts were for vehicle expenses. One of the receipts for this check included the purchase of two packs of cigarettes totaling \$9, including tax of \$1.

The sheriff should ensure that checks are prenumbered and counter checks are never utilized. The sheriff should require that all checks have dual signatures. Procedures should ensure that the sheriff's office receives to most advantageous prices for services performed. Commingling of fee account expenditures is prohibited. Adequate documentation should be maintained for all disbursements. Per the county's administrative code meal reimbursements should not exceed \$30 per day and the prevailing state rate per mile shall be paid if travel by personal vehicle is required. No expenses shall be reimbursed which are not directly related to job related purposes or other purposes directly related to county business. All travel by county employees must be approved in advance by the employee's supervisor or the county judge-executive. Meeting notices supporting travel shall be submitted with the travel request when available. A request for reimbursement form must be completed (including required receipts) and submitted to the county judge-executive within thirty days after returning from travel. The request for reimbursement form must be signed by the employee requesting reimbursement, the department director, and the county judge-executive. The purchase of flowers for funerals is considered unnecessary per Funk v. Milliken. The Kentucky Department for Local Government (DLG), pursuant to KRS 68.210 and Section 3 of the Kentucky Constitution, prohibits the prepayment of goods and services, which includes writing checks for cash or purchasing GreenDot cards. When the sheriff's office

writes a check to employees and there is a refund due back to the sheriff's office, this refund should be given immediately to the sheriff's office.

The cause is due to the sheriff's lack of ordering checks, not requiring dual signatures and requiring that proper documentation be maintained with each invoice. There is a lack of oversight over disbursements. By issuing a cash advance, the sheriff prepaid for goods and/or services. There is a lack of adequate controls over disbursements.

The lack of proper accounting of disbursements allowed the sheriff to expend fee monies for disallowed expenditures. The sheriff is at risk for duplicate payments and purchases of items not intended for the sheriff's office.

We recommend the sheriff comply with KRS 68.210 and the Kentucky Constitution by refraining from issuing cash advances, assuring that invoices are original and maintaining complete documentation of all disbursements. We further recommend the sheriff strengthen the internal controls over disbursements by requiring two signatures on checks, requiring that each invoice is reviewed completely before payment is issued, and by effectively documenting and keeping invoices in a way that makes it easy to determine what was paid with each check. This is an effective way to ensure duplicate payments are not made. We also recommend that the sheriff's review all invoices and sign off on these, validating the costs. The sheriff should also follow the county's administrative code when reimbursing employees for travel.

Sheriff's response: All funds were deposited to cover these expenses.

Auditors' Response: As of December 16, 2011, the only reimbursements for disallowed expenditures were the ones noted in finding the fourth finding.

- **The sheriff's office lacks adequate segregation of duties.** The sheriff's office lacks adequate segregation of duties since one employee, the part-time office manager/bookkeeper, is responsible for posting daily checkout sheets to the ledger, preparing and posting disbursements to the ledger, preparing monthly bank reconciliations and preparing quarterly reports. Additionally, the sheriff did not require dual signatures on checks issued.

A segregation of duties over accounting functions or implementation of strong compensating controls when limited by office staff is essential to providing protection from asset misappropriation and/or inaccurate reporting. The risk of misappropriation and/or human error increases when one individual is given complete authority over all accounting processes. Additionally, proper segregation of duties protects employees in the normal course of performing their daily responsibilities.

There was a failure to segregate duties or implement compensating controls. Misappropriation of assets or error could occur and not be detected in a timely manner.

We recommend the sheriff segregate duties or institute strong compensating controls including, but not limited to:

- The sheriff should require two (2) signatures on all disbursement checks;

- The sheriff should periodically recount and deposit cash receipts. This could be documented by initialing the daily checkout sheet and deposit ticket;
- An individual other than the bookkeeper should compare the daily checkout sheets and check register to the receipts and disbursements ledger for accuracy. This could be documented by the reviewer's initials on the ledgers;
- The sheriff should receive the bank statements unopened and review the statements for any unusual items prior to giving them to the individual responsible for reconciliations;
- An individual other than the bookkeeper should reconcile bank records with another employee reviewing them for accuracy. The preparer and reviewer could document by initialing the reconciliation;
- The sheriff should periodically review bank reconciliation and compare to the balance in the ledger. Any differences should be reconciled. This could be documented by his initials on the bank reconciliation and the ledger;
- The sheriff should review monthly and quarterly reports for accuracy. This could be documented by his initials on the reports and ledgers;

Sheriff's response: No response.

- **All employee timesheets should have a supervisor's signature.** During our test of payroll, we noted that not all employees' timesheets have a supervisor's signature.

Good internal controls over payroll include the signature and date of the supervisor on employee time sheets to indicate approval. A lack of adequate controls over timesheets could result in supervisors not being aware of the time charged by each employee. The sheriff or his designee should sign all timesheets.

Sheriff's response: No response.

- **The sheriff should properly account for donations.** The sheriff did not properly account for donations solicited for a drug awareness youth camp. Rather than open a separate bank account, the sheriff deposited the donations into his fee account. The sheriff solicited and received \$6,930 in donations from local entities to be used for a drug awareness youth camp. A total of \$6,959 was expended for camp expenses resulting in \$29 excess of expenditures over receipts. Because the sheriff did not separate donations from normal fee account activity and because he spent more than collected in donations, the sheriff used fee monies for the camp.

The Kentucky Department for Local Government requires all donations received be deposited into a separate bank account and any unexpended funds will roll forward and not be included as excess fees paid to the fiscal court.

We recommend the sheriff deposit future donations into a separate bank account and not expend more than is received for the donation. Furthermore, we recommend the sheriff deposit personal funds of \$29 to replace expenditures improperly paid with 2010 fee account revenues.

Sheriff's response: We now have separate accounts.

- **The sheriff paid employees \$9,200 in bonuses at the end of 2010.** The sheriff's wife and part-time bookkeeper received \$1,200 while other part time employees received \$800.

According to the Department for Local Government's budget manual under section labeled "Handling Public Funds, Minimum Requirements Pursuant To KRS 68.210, for all Local Government Officials (And Employees)", bonuses, prepayment for goods or services, nor any other contributions are NOT an appropriate expense of the government unless the fee official has implemented an incentive program under the guidelines of the administrative code. However, there was no evidence that these payments were for any extra effort or extra duties performed by these employees. It appears that these payments may have been made as bonuses. The \$9,200 in additional excess fees could have been turned over to the fiscal court if bonuses were not paid to employees.

We recommend that the sheriff's office discontinue this practice in order to be in compliance with the Department for Local Government's budget manual.

Sheriff's response: We will comply.

Judge-executive's response: No response.

- **The sheriff should not expend monies from any fund except in accordance with his approved budget.** The sheriff over expended his budgeted amounts.

No Sheriff shall expend any monies from any fund, except in accordance with a budget ordinance. The cause was a lack of adequate internal controls over budgeting.

The sheriff should only expend monies in compliance with his budget and should amend the budget as deemed necessary.

Sheriff's response: No response.

- **The sheriff should settle his fee accounts for all prior years.** During the 2010 fee audit, we followed up on prior year fee audit findings to determine whether the Sheriff had deposited all deficit amounts from personal funds. We obtained and reviewed bank statements for the 2007, 2008, and 2009 fee accounts.

We noted the following:

- As of September 20, 2011, the 2007 fee account had a balance of \$0. Two dollars in additional interest was earned on this account since the audit was completed. This additional interest should be paid to the fiscal court. The 2007 fee account accrued additional service charges of \$2. Since these additional charges were not accounted for when the 2007 fee audit was completed, we recommend the sheriff pay back the service charges to the 2007 fee account because these charges are an unallowable expense.

- As of June 30, 2011, the sheriff's 2008 fee account had a \$0 balance; however, deposits, including interest into and withdraws from this account have occurred since the audit was completed. The sheriff has deposited \$651 of personal funds and \$150 from the 2008-2009 tax account to eliminate a portion of the reported 2008 deficit of \$8,680. The Sheriff expended an additional \$41 for service charges and web site expenses. Since these additional expenditures and receipts were not accounted for when the 2008 audit was completed, the known deficit decreased to \$7,920.
- As of September 30, 2011 the 2009 fee account had a balance of \$388. This balance included \$4 in additional interest earned on the account and additional service charges of \$4. The 2009 deficit of \$10,800 remains unchanged.

KRS 134.160(2) requires the sheriff shall keep an accurate account of all moneys received by him, and all disbursements made by him. Per Funk v. Milliken, 317 S.W.2d 499(KY1958), Kentucky's highest court ruled that county fee officials' expenditures of public funds will be allowed only if they are necessary, adequately documented, reasonable in amount, beneficial to the public, and not primarily personal in nature.

When fee monies are commingled with other public funds the possibility of overspending all funds increases. By expending more funds than awarded or expending funds on disallowed expenditures; the reports submitted by the sheriff for external purposes are inaccurate. Additionally, the sheriff is required to deposit personal funds to cover these expenditures.

We recommend the Sheriff deposit personal funds to eliminate the deficits in the 2008 and 2009 official fee accounts. We further recommend the sheriff take immediate steps to ensure all monies spent are for allowable expenditures only.

Sheriff's response: These funds were approved by fiscal court as allowed expenses by the fiscal court. The county attorney is in the process of taking care of this issue.

Auditors' response: The fiscal court's determination of allowability does not affect the auditor's report. The sheriff will owe these amounts until depositing personal funds to eliminate them.

- **The sheriff should properly account for federal forfeiture funds by accounting for receipts and expenditures.** The sheriff did not deposit federal forfeiture funds into a separate bank account, but instead deposited them into the 2010 fee account in a line item named federal grants, where lake duty proceeds were coded. The sheriff did not properly account for the related expenditures for these receipts.

According to "The Guide to Equitable Sharing of Federally Forfeited Property for State and Local Law Enforcement Agencies" from the U.S. Department of Justice, the sheriff should establish a separate revenue account for the proceeds from the disposition of federal sharing proceeds. No other funds may be included in this account. In order to achieve this requirement, the sheriff should establish a separate bank account so he can properly track federal forfeiture activity. In addition, he should implement internal controls over receipts and expenditures of the federal forfeited funds to ensure forfeited funds are properly accounted for when received and expended in accordance with guidelines and court orders.

Because the sheriff did not properly segregate federal forfeiture assets from fee account monies, there is no way to tell if the sheriff properly spent federal monies.

We recommend the sheriff properly account for federal forfeiture funds in the future by depositing them into a separate bank account and by implementing strong controls over the federal forfeiture receipts and expenditures. We further recommend the sheriff ensure that future expenditures are within the guidelines and court orders relating to the forfeitures.

Sheriff's response: These funds were spent properly to purchase vehicles from the city of Hyden, which was an allowable expense.

Auditors' Response: A separate bank account should have been maintained as required.

- **The sheriff should not dispose of seized property until awarded by the court.** During calendar year 2010, the sheriff seized a 2009 Ford Expedition, 2009 Mercury Cougar, CBR 600 Honda, Cannondale Cannibal ATV, Yamaha motorcycle, and a Lifan motorcycle. Auditors asked to view the Cannondale Cannibal ATV and the sheriff stated that upon the time of the seizure these items were towed, and the Cannondale Cannibal ATV, which was just a frame, was remitted to the person towing the property in lieu of payment.

Per KRS 218A.415(2)(a)(b), the sheriff may take custody of and remove property seized to an appropriate location for disposition in accordance with the law. Once disposition is ordered, the sheriff may retain the assets for official use or sell that which is not required to be destroyed by law. If the court had decided that the assets noted above were to be returned to the defendants, the sheriff would have had to return the property.

We recommend the sheriff segregate all seized assets and ensure they remain on hand until they are awarded to the sheriff's department.

Sheriff's response: We protest this finding. This property was awarded to the (sheriff's office) in 2010 and were not sold or transferred until they were awarded by the court.

Auditors' Response: The sheriff's response contradicts what auditors were told during fieldwork. There is no documentation to substantiate the sheriff's assertion.

The sheriff's responsibilities include collecting property taxes, providing law enforcement and performing services for the county fiscal court and courts of justice. The sheriff's office is funded through statutory commissions and fees collected in conjunction with these duties.

This report, in its entirety, can be accessed at the following Internet site: [here](#).

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